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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/530,778	09/19/95	SCHERTLER	R 622/40901RE
C2M1/0403			EXAMINER
EVENSON MCKEOWN EDWARDS & LENAHAH 1200 G STREET NW SUITE 700 WASHINGTON DC 20005			REFUSED PAPER NUMBER 3206

DATE MAILED: 04/03/97

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 12/03/96 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.  | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____   |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-34 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1-34 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☒ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☒ been filed in parent application, serial no. 7/888,111; filed on 5/24/92.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Art Unit: 3206

## **DETAILED ACTION**

### ***Reissue Applications***

#### **Oath/Declaration**

1. The reissue oath or declaration filed with this application is defective because it fails to distinctly specify the insufficiencies in the claims by not pointing out the difference in scope between the original claims and the instant claims, as required under 37 C.F.R § 1.175(a)(3). Although it may set forth the scope of the amended or added reissue claims, it does not specify how the scope of the original claims is different from the scope of the amended or added claims, specifically, how differences in scope for having, in addition to the original claims, displacement drives or linear drives to displace workpieces towards or from an opening and provide independent movements between the conveyors, or without the requirement of treating and handling the at least one workpiece at the two openings by a drive shaft.

Note that the reissue declaration, in order to meet the requirement under C.F.R. § 1.175(a)(3), should describe how each

Art Unit: 3206

of the changes in the added claims rectifies the errors in the original claims of the patent, and how the scope of the added claims differs from the original claims of the patent. See MPEP 1414.01.

2. The reissue oath or declaration filed with this application is defective because it fails to particularly specify the errors relied upon, as required under 37 C.F.R. § 1.175(a)(5). That includes:

"any change or departure from the original specification or claim representing an error in the original patent under 35 USC 251 must be addressed in the reissue oath or declaration" and including "how and when each of the errors arose or occurred", as well as, "how and when each of the errors was discovered".

Applicant's attention is directed to *Hewlett-Packard v. Bausch & Lomb*, 11 USPQ 2d 1750, 1758 (Fed. Cir. 1989).

Thus, the declaration should specifically describe each of the changes, for example, the added material of the displacement drives operatively mounted on a transport device to displace workpieces relative to the transport device and move the

Art Unit: 3206

conveyors independently with each others, or the omission of a drive shaft having transport arms projected therefrom as recited in the original claims 1 and 16.

Further, Applicant's oath or declaration does not specify why the inventions set forth in the present claims were never previously claimed in the original patent, particularly, for the newly independent claims 30-34, in which, claims 30-33 comprise holding members being selectively brought into alignment with a corresponding opening of the chamber by a displacement drive (claims 30, 31, 33) or by using a linear drive for moving independently each of the conveyors (claim 32), and in claim 34 the method of processing a workpiece. Note that in the declaration of the original case, Applicant should have stated his/her understanding of what is being claimed as the instant invention.

***CLAIM REJECTIONS - 35 USC § 251***

4. Claims 1-34 are rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251 as set forth above. See 37 C.F.R. § 1.175.

Art Unit: 3206

***Response to Arguments***

3. Applicant's arguments filed 12/03/96 have been fully considered but they are not persuasive.

The requirement for a new reissue declaration has not been met, according to Rule 175. As noted under 37 CFR 1.175 (a) (5), each of the errors must be specified as how and when it arose or occurred. Included are inadvertent errors in conduct, i.e., actions taken by the applicant, the attorney or others, before the original patent issued, which are alleged to be the cause of the actual errors in the patent; as well as how and when the errors were discovered. Supporting for the requirements can be found in MPEP section 1444 and the cases cited therein.

In response to the applicant's argument on page 3, last paragraph that the reissue allows for claiming newly added features to the original patented claims, i.e., the displacement drives in claims 30-33 or claiming a distinct invention (method claim 34), however, applicant should be aware that a reissue is intended for correcting the errors in the original patent and

Art Unit: 3206

therefore it would be improper for claiming newly features unless these features are shown necessarily needed for supporting the invention in the original patent.

**Conclusion**

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khan V. Nguyen whose telephone number is (703) 308-1769.

Serial Number: 08/530,778

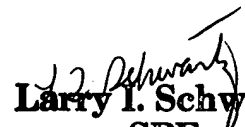
-6-

Art Unit: 3206

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1148.

Pursuant to 37 CFR 1.6(d), Applicant may submit documents related to the application directly to the group through facsimile transmission whose number is (703) 305-3579.

Khan V. Nguyen  
April 1, 1997

  
**Larry I. Schwartz**  
**SPE**  
**Art Unit 3206**